

Weekly Miner  
established 1875

Volume 136, issue 21, November 18, 2010

1260635 - R8 SDMS

# Silverton STANDARD & the MINER

SILVERTON'S PIONEER NEWSPAPER SINCE 1875

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## IN BRIEF

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Kurtz said that Conrad is on leave pending an "ongoing investigation."

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Those attending the dinner may contribute side dishes or desserts. Donations will be gladly accepted. Everyone is welcome. Let us come together and be thankful.

For more information, please contact Patty Dailey.

### Silverton Standard's Vacation Edition comes out next week

*Silverton Standard & the Miner* editor Mark Esper is on vacation next week, so the paper is likely to be a bit slimmer than usual.

"So don't do anything newsworthy until I get back," Esper said.

He will remain on vacation through Dec. 5, but will be producing the *Standard* from a secure, undisclosed location.

Esper can be contacted by e-mail at [editor@silverton-standard.com](mailto:editor@silverton-standard.com), so send in some news articles or e-mail some photos and they can still get in the paper.

And *Standard* advertising director Katey Fetchenier is available by calling the *Standard* office, 387-5477.

### Standard published a day early next week

Because of the Thanksgiving Day holiday, the *Silverton Standard* will be delivered to the post office and vending machines in Silverton a day early next week, on Wednesday, Nov. 24.

Have a great Thanksgiving Day!

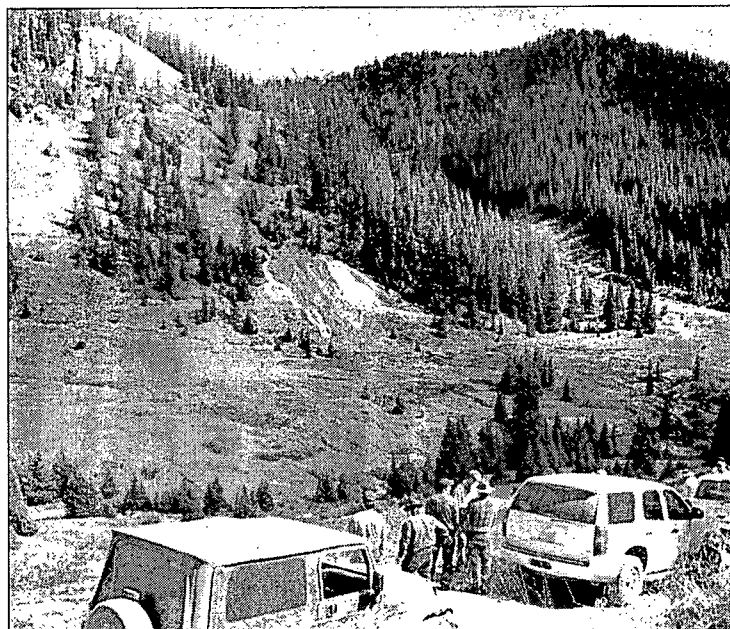
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See BRIEFS, Page 10

## EPA probes Cement Creek



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### Agency out to see if area may qualify for Superfund

By Mark Esper

The Environmental Protection Agency has conducted intensive water and soil sampling in the upper Cement Creek area in recent weeks to see if the area may qualify as a Superfund site.

The creek has long been considered one of the worst sources of metals contamination in the upper Animas River basin, owing to water laden with heavy metals gushing from abandoned mines in the Gladstone area.

And the water quality in the creek appears to be worsening, said Sabrina Forrest, site assessment manager for the EPA in Denver. This degradation was not what EPA had in mind in the 1990s when EPA backed away from possible Superfund listing of the watershed, Forrest said. Prior EPA management had agreed to forego listing as long as progress was being made in the watershed.

Forrest said the EPA is conducting a site reassessment to determine if the complex of mines near Gladstone could qualify for the National Priorities List (NPL), which would make it eligible for the so-called Superfund.

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## Superfund at a glance

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), commonly known as Superfund, was enacted by Congress on Dec. 11, 1980.

This law created a tax on the chemical and petroleum industries and provided broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or the environment.

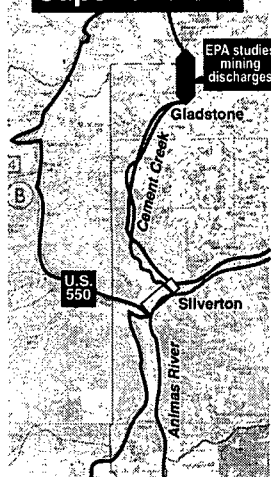
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- established prohibitions and requirements concerning closed and abandoned hazardous waste sites;
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As of March 26, 2010, there were 1,279 Superfund sites on the National Priorities List in the United States. Sixty-one additional sites have been proposed for entry on the list. As of March 26, 2010, 341 sites have been cleaned up and removed from the list.

As of May 1, 2010, there were 18 Superfund sites on the National Priorities List in Colorado. Two more sites have been proposed for entry on the list and three others have been cleaned up and removed from it.

### Possible Superfund site



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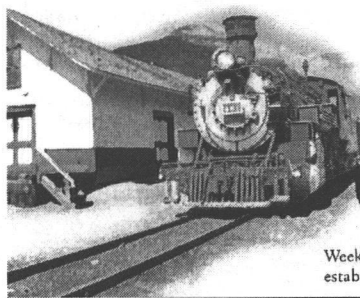
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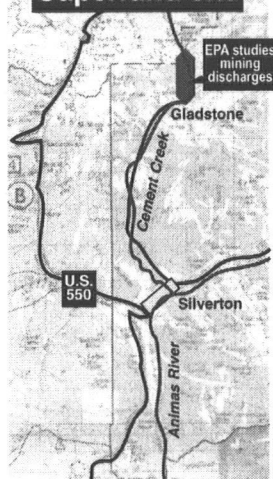
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**Subscriptions** are \$24 per year for Silverton residents; \$48 per year for all other deliveries by U.S. mail. Digital e-mail delivery is available at \$26 per year.

#### Our goals

The *Silverton Standard & the Miner* is a weekly newspaper written for people interested in the issues and news of Silverton, Colo., and the surrounding San Juan Mountains region. The *Standard* voices a strong sense of community for Silverton and the San Juans as it brings you the issues, characters, landscapes, and the talent of the region. Stressing in-depth, balanced, and thoughtful writing, news, photography, and topical articles on key issues affecting the region, the *Standard* keeps the greater San Juan community informed, entertained, provoked, and engaged in dialogue about the community and its future.

**Colorado Press Association winner:**  
Best news content for a small weekly, 2007; best photos and design, 2008.

#### 2009 CPA awards:

- Best Education Story
- Best News Page Design
- Best Informational Graphic
- Best Feature Page Design
- Best Headline Writing

**COLORADO PRESS ASSOCIATION**

## No more sled sales here

By Brice Hoskin

### GUEST OPINION

I would like to thank all of you who have supported me and Mountain Boy Sledworks since I started the company here in 2002. Because of your kind words, excellent ideas, product testing and pitching in when help was desperately needed, the company has grown beyond anyone's wildest expectations.

This year we shipped over 12,000 sleds to people across

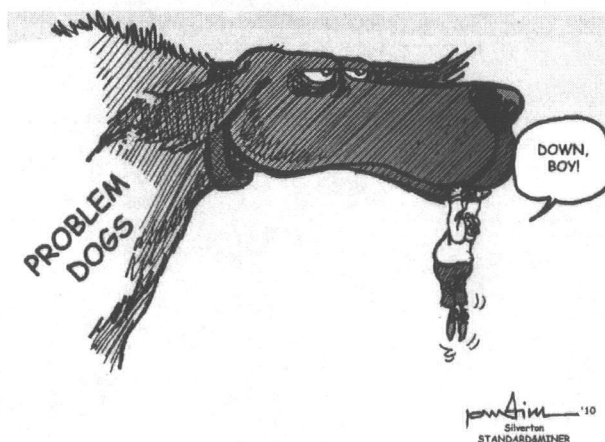
North America and Europe, and the future looks bright. This simply would not have been possible without your help.

Two weeks ago, I watched the Montanya banner trial in Silverton Municipal Court. I have no dispute with Judge Skinner's ruling. I believe he saw this case as something much like a parking ticket — he looked at the code, confirmed that we had put up a

banner that didn't comply, and issued his ruling.

From what I could tell, he walked into the courtroom that morning with his decision already written. The fact that we were told by Town staff that banners were allowed for special events simply didn't matter. Would he have ruled the same way on a citation for a "Welcome Hunters" or "Operation Linkup" banner? I

See *SLEDs*, Page 3



## Senate should fully fund LWCF

### GUEST OPINION

One important issue that Congress will face in the lame duck session on Nov. 15 is the need to finally provide consistency for a program that has done more for local communities and our country than most people realize.

Signed into law in 1964, the Land and Water Conservation Fund (LWCF) was designed to

dedicate a portion of revenues from offshore oil and gas development for land conservation and outdoor recreation throughout the country — a promise that has been chronically unfulfilled.

LWCF was supposed to receive \$900 million per year

— a drop in the bucket of offshore revenues that typically tally well over \$5 billion — but has been shortchanged by Congress nearly every year, with revenues regularly being diverted to other purposes.

Full funding has been appropriated only once in the LWCF's 46-year history and

See *LWCF*, Page 5

## Warm side of winter ends

By Freddie Canfield

### WEATHER AND OBSERVATIONS

The warm side of winter which we enjoyed the fall ended abruptly with the end of last weather week.

Since then an ongoing series of snow-producing weather patterns occurred in the San Juans and more so to our north. As a result, temperatures fluctuated downward along with intermittent snowflakes.

We have consistently experienced below zero and low single-digit readings for the first time this season.

Our not very high temperature readings hovered around the freezing mark more often than not.

All of this adds up to a sudden challenge to bipeds not equipped with appropriate footwear when contending with slippery surfaces in the Great Outdoors.

Bicycling now requires even greater concentration in the moment as well. In town or in the back country, be aware and beware!

Sled dogs, however, are absolutely ecstatic with the turn of meteorological events. Missy and Freddie are sharing their joyful enthusiasm and resulting commotion.

On Sunday morning we raced dog carts with plenty of wind chill and a temperature of 5

Date	High	Low	Precip., conditions
Nov. 10	33	0	.12, 1.8", light overcast
Nov. 11	33	-1	Clear
Nov. 12	37	-1	Slightly overcast
Nov. 13	41	3	Virtually clear
Nov. 14	34	5	.11, 2" snow, overcast
Nov. 15	26	3	High overcast
Nov. 16	38	5	Clear

degrees. Missy had the good sense to wear heat packs in her boots and gloves. Freddie didn't, and frozen-feeling fingers and toes were the result.

Why do Huskies howl exactly when I need to wake up or precisely at 7 a.m. when I take my meteorological readings for the day? The mysteries of life surround us like the wilderness surrounds Silverton.

This time of year living where and as we do, very little interferes.

Our connectedness with our own natures and the natural world renews.

We can find ourselves awakening to awe and wonder at any moment. May this always be true for each and every one of us — no matter where we are.

### FROM THE STANDARD MAIL CAR



### Town Council asked to lift the banner ban

Dear Town Council and Town Administrator:

I just got done reading the article about the Hoskins' banner violation.

As a citizen of Silverton and San Juan County I'd like to voice my support for a change in that policy.

I'm going to be blunt;

We NEED to bring people to our businesses and anything that makes that harder is a bad thing for the town. I used to own a business in Durango and they allow for temporary signage for up to seven days a month (so that a business can advertise a special event). I think that's a reasonable alternative to our current "no way, no how" policy.

Furthermore, if the Town is worried about the way signage might look, let's take a look at how these boarded up homes and businesses look; now THAT is unsightly and bad for the Town's image of a "year-round community." We need to address that more than we need to worry about a business trying to bring in a few tax dollars we so desperately need.

Thanks for listening and I hope that you would please share this with your Board members and any other committee members that you should think would be interested.

Respectfully,  
Anne-Britt Ostlund,  
Silverton

See *LETTERS*, Page 5

### ROAMIN' POHLMANS

## Goin' to Chicago

Did you know that the Windy City doesn't refer to air movement, but about the hot air coming from the politicians?

Heck, some of our politicians would be right at home there.

Can you say Beluga? Never in my life did I think I would see Beluga whales, especially in Chicago. No, I'm not talking about the people. Ha ha! I'm talking about the Shedd Aquarium in Chicago. Awesome exhibit! They have four Beluga whales and a baby, their so cool. (It will be five whales if I don't quit doing the hand-to-mouth exercise).

(R.V. tip #7 — Wahoo for Walmart! You can spend the night in their parking lots when your husband makes a wrong turn.)

Hey, what's with those toll roads? E-gads! We encountered toll roads in Chicago and you have to take out a small loan for them. (R.V. tip #8 — The booth operator let us in on a little secret. It's cheaper when you travel between the hours of 11 p.m. and 4 a.m.) Yeah, whatever! I would personally like to be sleeping between those hours. Oh,

See *POHLMANS*, Page 5



**SUPERFUND, from Page 1**

Environmental Response, Compensation and Liability Act.

Enacted by Congress in 1980, it created a tax on the chemical and petroleum industry to establish a trust fund for major environmental cleanups. This tax no longer exists; however, EPA receives over \$7 billion in Congressional funding each year and about \$1.2 billion goes to Superfund programs. And the law helps the EPA to identify and establish the liability, viability, and capability of persons potentially responsible for releases of hazardous substances.

**The first step**

The first step of the process for listing Superfund sites is for the EPA to do a preliminary assessment and site inspection. Following the site inspection, or in this case, the site reassessment, the site data and other information are used in a mathematical model. The model, called the Hazard Ranking System is a screening tool that allows the agency to assess the relative threat associated with actual or potential releases of hazardous substances from sites across the nation.

If the model indicates the site could be listed for further investigation and a comprehensive response action, much more work with all stakeholders, including landowners, the community, and state will be needed to place the site on the NPL, Forrest said. "However, once a site is listed, a plan is developed to remediate the contamination. The cleanup plan does not get developed without significant input from all stakeholders."

Since 2009 and prior to the site reassessment, the EPA and ARSG members have focused on collecting water-quality data from mine adits and other mining-impacted drainages to see how water quality and flows have been changing since the American Tunnel was plugged and water treatment in Gladstone was stopped in 2004. Those data are not of the type EPA would exclusively use for the HRS model.

"We don't have a comprehensive enough data set to say that this is a NPL-caliber site," Forrest said. "We can't say where this is going, but in order to determine if it is of National Priorities List caliber, data has to be collected that we can use in our model."

Forrest said Superfund listing is "one potential tool in the tool box" in the EPA's mission to protect human health and the environment.

"We did the sampling in the last few weeks," Forrest said. "It will be another four to eight weeks before we start getting data and tasking our contractors to start poring over it," Forrest said.

She added that she expects a determination on whether the site qualifies as a Superfund priority to come in January or February at the earliest.

Forrest also noted that Superfund listing "needs community support" and state support in the form of a governor's letter to the EPA.

"There's a lot of coming



Mark Esper/Silverton Standard & the Miner file photo

From left, Steve Feam of Silverton, Sabrina Forrest of the Environmental Protection Agency's Denver office, Kay Zillich of the Bureau of Land Management, and Peter Butler of Durango discuss water quality issues associated with mine runoff along Cement Creek in a September field trip organized by the Animas River Stakeholders Group. To the right, tailings from the Bonita and Red Mine are visible, with water gushing over it.

## Cement Creek's complex problem

Cement Creek has seen a steady increase in metals loading since a treatment plant for mine runoff at Gladstone was shut down in 2004.

That shutdown was the result of a court order in a lawsuit involving a complicated property dispute.

The water treatment plant had been operating since the early 1980s, in conjunction with the Sunnyside Mine, which closed in 1991.

Just above the site in Gladstone where the treatment plant once stood lies the portal to the American Tunnel, which was sealed starting in the late 1990s by a series of three bulkheads.

It was hoped the bulkheads would limit discharge of contaminated water from the mine, and for a time, that appeared to be the case.

But about four years ago it was noticed that discharges of water from other mines was increasing.

Now, about 250 gallons per minute are gushing from the Gold King Mine opening above the tunnel. The Mogul and the Red and Bonita mines are also showing increases in discharge as water has risen some 1,000 feet above the American Tunnel level after the bulkheads were put in there.

together that needs to happen," Forrest said.

## Superfund: The process at a glance

The Superfund cleanup process begins with site discovery or notification to EPA of possible releases of hazardous substances. Sites are discovered by various parties, including citizens, State agencies, and EPA Regional offices.

Once discovered, sites are entered into the Comprehensive Environmental Response, Compensation, and Liability Information System (CERCLIS), EPA's computerized inventory of potential hazardous substance release sites (search CERCLIS for hazardous waste sites).

Some sites may be cleaned up under other authorities. EPA then evaluates the potential for a release of hazardous substances from the site through these steps in the Superfund cleanup process.

Community involvement, enforcement, and emergency response can occur at any time in the process. A wide variety of characterization, monitoring, and remediation technologies are used through the cleanup process:

- **Preliminary Assessment/Site Inspection:** Investigations of site conditions. If the release of hazardous substances requires immediate or short-term response actions, these are addressed under the Emergency Response program of Superfund.
- **National Priorities List (NPL) Site Listing Process:** A list of the most serious sites identified for possible long-term cleanup.
- **Remedial Investigation/Feasibility Study:**

Determines the nature and extent of contamination. Assesses the treatability of site contamination and evaluates the potential performance and cost of treatment technologies.

- **Records of Decision:** Explains which cleanup alternatives will be used at NPL sites. When remedies exceed 25 million, they are reviewed by the National Remedy Review Board.

- **Remedial Design/Remedial Action:** Preparation and implementation of plans and specifications for applying site remedies. The bulk of the cleanup usually occurs during this phase. All new fund-financed remedies are reviewed by the National Priorities Panel.

- **Construction Completion:** Identifies completion of physical cleanup construction, although this does not necessarily indicate whether final cleanup levels have been achieved.

- **Post Construction Completion:** Ensures that Superfund response actions provide for the long-term protection of human health and the environment. Included here are Long-Term Response Actions (LTRA), Operation and Maintenance, Institutional Controls, Five-Year Reviews, Remedy Optimization.

- **National Priorities List Deletion:** Removes a site from the NPL once all response actions are complete and all cleanup goals have been achieved.

Source: Environmental Protection Agency

**The sites in question**

The site reassessment work focuses on a cluster of mine sites at and above Gladstone, including the American Tunnel, Gold King Number 7 level, the Mogul and Grand Mogul and the Red and Bonita mines.

Bill Simon coordinator of the Animas River Stakeholders Group, said that while the group has sought "appropriate and cost-effective assistance" from the EPA, the group has "consistently rejected the CERCLA (Superfund) program."

The ARSG has instead favored funding from other sources, such as the Headwaters Initiative, Mine Scarred Lands and Targeted Brownfields programs.

"Nevertheless, all options are on the table, as they have been in the past," Simon said. "The EPA has obligations that they must attempt to address and we have ours. They are not always the same."

Simon estimated some 400 pounds of zinc per day are being poured into the drainage. Much of that was previously being taken out by the treatment plant at Gladstone prior to 2004.

The stakeholders group was formed in 1994 as a collaborative approach to water quality issues in the region and as an alternative to a Superfund designation in the area. It includes representatives from the EPA, Colorado Department of Health

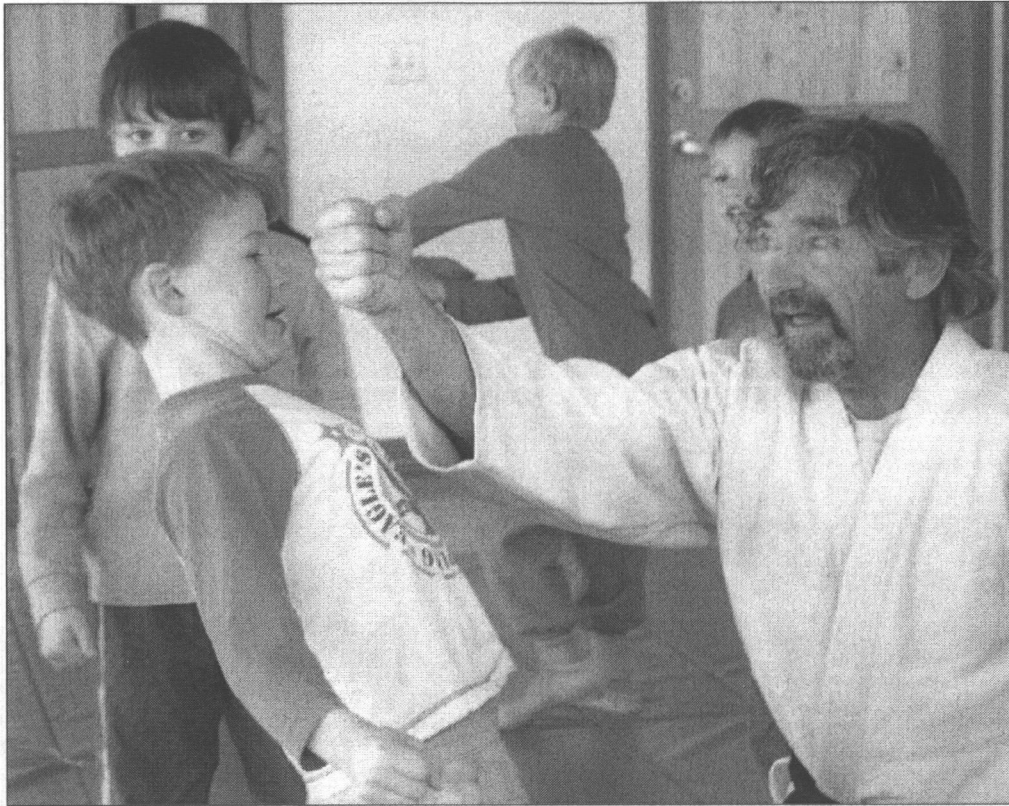
and Environment, the San Juan Public Lands Office, and community members interested in water quality issues in the upper Animas Basin.

Many in the Silverton community felt that the stigma of such a designation would devastate the area's tourism industry.

Steve Fearn, a member of the ARSG and a Silverton mining engineer with extensive experience in the San Juans, says the stakeholders group has not been asked to support a CERCLA action, "and in my opinion, there would probably not be a consensus in the group to support this."

Fearn noted that over the past 16 years, ARSG "has specified

See SUPERFUND, Page 9



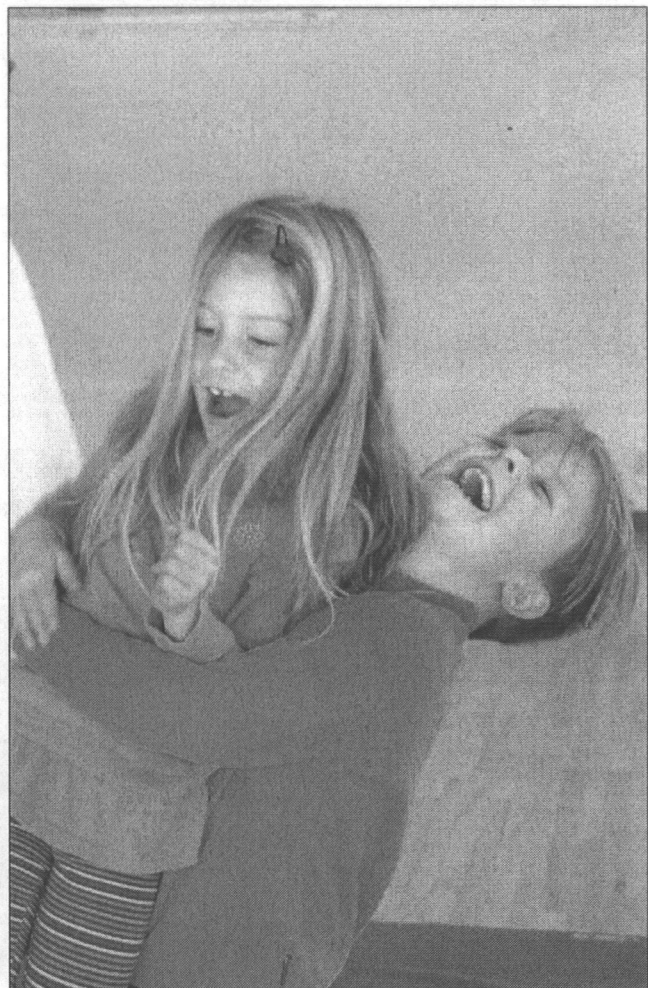
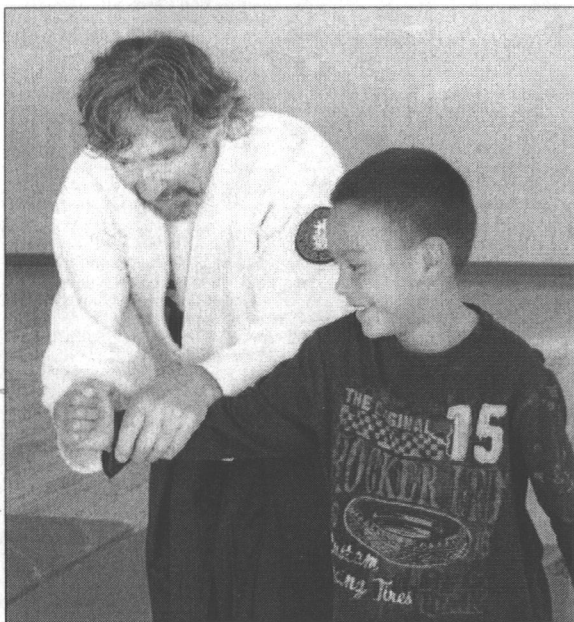
## 'THE WAY OF HARMONIOUS SPIRIT'

Silverton students in all grades are studying Aikido, a Japanese martial art often translated into "The Way of Unifying with life energy" or "the Way of harmonious spirit." It's part of an after-school extracurricular activity sponsored by the Silverton School Booster Club and being taught by Richard McKeamen, an instructor with Four Corners Aikido Koki Kai. In these photos, students from kindergarten to second grade practice at the Kendall Mountain Community Center on Tuesday, Nov. 16.

**Above:** Kai Morris learns to dodge a punch.

**Below:** Alan Prieto tries to punch the instructor, but McKeamen dodges the blow and demonstrates how to use the punch's energy against the attacker.

**Right:** Raja Bratford-Lefebvre gets a lift from Seamus Garvin.





## SUPERFUND, from Page 8

cally not endorsed Superfund actions in the basin, but has successfully worked on more collaborative alternatives."

Fearn acknowledged that the Gladstone/Cement Creek metal loading issue "is probably the single largest water quality issue we have in the Upper Animas Basin."

He expressed hope that the data gathered by the EPA "will be useful in understanding the details of the problem so that better solutions can be identified."

And Fearn said that while the EPA "may feel it is required to determine if this process (Superfund) would be applicable to this situation, this action is independent of the stakeholders group."

## 'Nibbling at the edges'

Forrest said she appreciates the progress ASRG has made over the years.

"The stakeholders have done a phenomenal job, but they're kind of nibbling around the edges of what are some larger remaining issues with regard to sources of water quality and habitat degradation. Those issues will be expensive to address," Forrest said.

Forrest said she would like to see more community involvement in addressing the problems of water quality degradation due to past mining activities.

And she said the current effort to determine if the Cement Creek district qualifies for Superfund differs from past initiatives.

Forrest noted that some EPA inspection of the area was done in the late 1990s, "but they were looking at the area in a larger, watershed way."

"We're now just trying to focus on some of the larger sources on Cement Creek that have the worst impact on water quality," Forrest said.

Forrest acknowledged that the EPA did make a past commitment that if the stakeholders group finds collaborative ways to make water quality improvements that Superfund would not be used.

But Forrest noted that water quality in Cement Creek has gone downhill since 2005 when a treatment plant at Gladstone went off line.

"That's when we started to see more degraded water quality beginning," Forrest said.

In light of that, she said the EPA may have to reconsider its stance. She said the EPA did agree to steer clear of Superfund as long as there is improvement, "but that hasn't continued."

Todd Hennis of Silver Plume, who owns several mining properties in San Juan County, expressed concern that the EPA will require past and present landowners in the area to pay for the cleanup, whether they are responsible for the contamination or not.

He also urged state and federal officials to implement what he called "the only real technical solution" to the mine pool problem by removing the third bulkhead of the American Tunnel, which he said would remove all the new discharges that have occurred since 2000, and allow the water to be treated from a single source.

He said it could be done "in a way that strengthens the San Juan County community rather than destroying it."

Hennis accused the EPA of "breaking its promise to the people of San Juan County" by pursuing possible Superfund designation.

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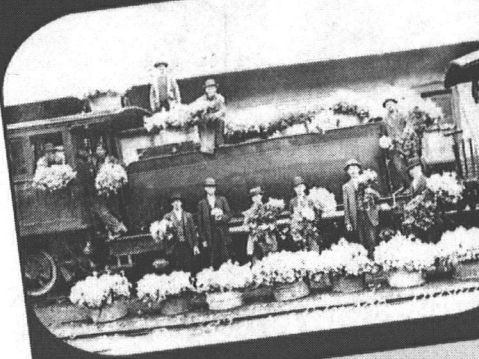
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This 2011 Silverton Standard & the Miner calendar features some of the infamous "Extracts from the Gladstone Kibosh," outrageous stories alleged to have come from a mythical Gladstone newspaper, concocted by Silverton Standard editor Oliver Klinger from 1899 to 1906.

January 4, 1906

How fast they passed off very quickly this year, only to be seen some days later, only to be seen the morning after being in the morning at midnight. The watch service at the Silverton Army was a failure, as French learned, the only participant, who was with a stray bullet in the hip and retired at 11:00 only one away. While French was charged with the task of firing and firing at 12:00 a.m.

Jan. 6, 1901

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**BRIEFS, from Page 1**

Silverton Movement Center, with a fee of \$9 payable to Ananda Foley.

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"Leave your shoes at the door and be ready to sway a little too," Foley said.

### Effort to revive Step Back in Time dropped

The Durango-based Victorian Aid Society has given up on its plan to revive the Step Back in

Time celebration in Silverton after town officials refused to offer the free use of Town Hall for a dance.

The town was asking for \$375 for using the upstairs meeting room for four hours.

The Victorian Aid Society wanted to put on a dance in mid-June, around which other Step Back in Time events could be organized.

Step Back in Time is Silverton's celebration of yesteryear.

Victorian Aid Society representative Darla Hill expressed disappointment over the town's refusal to allow Town Hall to be used at no cost.

Town Administrator Jason

Wells said the town is facing serious costs to maintain its facilities but it does offer discounts to nonprofits.

"I do think it's unfortunate that we couldn't strike a balance with Victorian Aid Society that would both allow for their event and help us establish some solvency in our facilities upkeep costs," Wells said.

On Monday, the Town Council's buildings and grounds committee, comprised of Pat Swonger, Karla Safranski and David Zannoni, suggested the aid society make a donation to help with the upkeep of Town Hall as a way to help pay for its use of the facility.

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